

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q80358	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/800,670		Filed March 16, 2004
	First Named Inventor Paul VINCENT		
	Art Unit 2434		Examiner William S POWERS
<div style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</div>			
<p>Applicant requests review of the rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <div style="display: flex; justify-content: space-between;"><div>Registration number <u>59,043</u></div><div><u>/Mark E. Wallerson/</u> Signature</div></div> <div style="display: flex; justify-content: space-between; margin-top: 100px;"><div></div><div><u>Mark E. Wallerson</u> Typed or printed name</div></div> <div style="display: flex; justify-content: space-between; margin-top: 100px;"><div></div><div><u>(202) 293-7060</u> Telephone number</div></div> <div style="display: flex; justify-content: space-between; margin-top: 100px;"><div></div><div><u>August 16, 2010</u> Date</div></div>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q80358

Paul VINCENT, et al.

Appln. No.: 10/800,670

Group Art Unit: 2434

Confirmation No.: 3012

Examiner: William S POWERS

Filed: March 16, 2004

For: AN ELECTRONIC STAMP FOR MULTIMEDIA MESSAGES

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Office Action dated April 15, 2010, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 1-5 and 14 remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over previously cited Kuzma in view of Mobile Tech News, "Logica first to enable MMS Intercarrier Messaging", hereafter "Mobile News", and further in view of newly cited Fenton et al. (U.S. Patent Application Publication No. 2003/0193967, hereafter "Fenton").

Applicant respectfully traverses the prior art rejections.

Independent claim 1 recites in part:

sending, by the sender terminal, a Multimedia Messaging Service message which includes an electronic stamp, and

verifying the validity of the electronic stamp by the multimedia message service center,

wherein the electronic stamp is an element associated with paying for sending the message, and includes a value of the stamp, and

wherein the value of the stamp depends on a number of addressees that the message is to be sent to.

In the previous Amendment filed on March 2, 2010, Applicant submitted that there is no teaching or suggestion in the cited references that “the value of the stamp depends on a number of addressees that the message is to be sent to”, as recited in amended independent claim 1.

Applicant argues that although the Examiner cited paragraph [0039] of Fenton as allegedly teaching this element of the claim, this cited portion of Fenton merely teaches that a charging mechanism may include (among other criteria) a number of messages sent. Applicant submitted that “a number of addressees” as claimed is not equivalent to the number of messages sent, as taught by Fenton. The number of messages sent does not equate to the number of addressees, at least because plural messages can be sent to a single addressee.

In response, the Examiner asserts:

It is clear from the Fenton application that there is a charge for each recipient of a message. “The pre-charging notification indicates to the recipient (addressee) prior to the recipient downloading a multimedia message whether the sender has paid for the message” (Fenton, [0039]).

Applicant again respectfully disagrees with the Examiner. According to an exemplary embodiment of the present invention, the numerical value of the stamp may be a unique

identifier which may include the amount of the stamp, which may depend on, among other things, the number of addressees the message is being sent to (see for example page 8, line 34 to page 9, line 4 of the specification as filed).

During a telephone interview conducted with the Examiner on June 22, 2010, Applicant clearly articulated the differences between the claimed invention and cited references. Specifically, Applicant submitted that Fenton does not teach or suggest that “the value of the stamp depends on a number of addressees that the message is to be sent to”, as recited in independent claim 1. At best, Fenton teaches that the number of messages sent may be used as a charging mechanism (paragraph [0039] of Fenton). However, this teaching by Fenton does not correspond to the value of a stamp being dependent upon the number of recipients that the message is being sent to.

Nevertheless, the Examiner maintained his position, and asserted that in his opinion, the claimed feature is taught by paragraph [0039] of Fenton.

Applicant respectfully submits that the teaching by Fenton that a pre-charging notification indicates to the recipient prior to the recipient downloading a multimedia message whether the sender has paid for the message, does not indicate the number of addressees that a message is being sent to. Fenton merely teaches that a recipient is notified whether a user has paid for a message, or whether the recipient has to pay for the message.

Accordingly, Applicant respectfully submits that there is no teaching or suggestion in Fenton (or any of the other cited references) that “the value of the stamp depends on **a number of addressees** that the message is to be sent to”, as recited in claim 1.

Accordingly, Applicant respectfully submits that independent claim 1 should be allowable because the cited references, alone or in combination, do not teach or suggest all of the elements of the claims. Claims 2-5 and 14 should also be allowable at least by virtue of their dependency in independent claim 1.

Respectfully submitted,

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